

Bill no.:	HR 3893
Amendment no.:	18
Date offered:	9/28/05
Disposition:	Agreed to by W, as amended

AMENDMENT TO H. R. 3893
OFFERED BY Mr. Barton

Strike sections 201 and 202 and insert the following:

1 **SEC. 201. FEDERAL-STATE REGULATORY COORDINATION.**

2 (a) GOVERNOR'S REQUEST.—The Governor of a
3 State may submit a request to the Commission for the
4 application of process coordination and rules of procedure
5 under section 202 to the siting of a crude oil or refined
6 petroleum product pipeline facility in that State.

7 (b) APPLICABILITY.—Section 202 shall only apply to
8 crude oil or refined petroleum product pipeline facilities
9 sited or proposed to be sited in a State whose Governor
10 has requested such applicability under subsection (a).

11 (c) INTERSTATE COMPACTS.—(1) The consent of
12 Congress is given for ~~1~~² or more contiguous States to enter
13 into an interstate compact, subject to approval by Con-
14 gress, establishing regional pipeline siting agencies to fa-
15 cilitate siting of future crude oil or refined petroleum
16 product pipeline facilities within those States.

17 (2) The Secretary may provide technical assistance
18 to regional pipeline siting agencies established under this
19 subsection.



1 **SEC. 202. PROCESS COORDINATION AND RULES OF PROCE-**
2 **DURE.**

3 (a) DEFINITIONS.—For purposes of this title—

4 (1) the term “Commission” means the Federal
5 Energy Regulatory Commission; and

6 (2) the term “Federal pipeline authorization”—

7 (A) means any authorization required
8 under Federal law, whether administered by a
9 Federal or State administrative agency or offi-
10 cial, with respect to siting of a crude oil or re-
11 fined petroleum product pipeline facility in
12 interstate commerce; and

13 (B) includes any permits, special use au-
14 thorizations, certifications, opinions, or other
15 approvals required under Federal law with re-
16 spect to siting of a crude oil or refined petro-
17 leum product pipeline facility in interstate com-
18 merce.

19 (b) DESIGNATION AS LEAD AGENCY.—

20 (1) IN GENERAL.—The Commission shall act as
21 the lead agency for the purposes of coordinating all
22 applicable Federal pipeline authorizations and re-
23 lated environmental reviews with respect to a crude
24 oil or refined petroleum product pipeline facility.

25 (2) OTHER AGENCIES.—Each Federal and
26 State agency or official required to provide Federal



1 pipeline authorization shall cooperate with the Com-
2 mission and comply with the deadlines established by
3 the Commission.

4 (c) SCHEDULE.—

5 (1) COMMISSION'S AUTHORITY TO SET SCHED-
6 ULE.—The Commission shall establish a schedule
7 for all Federal pipeline authorizations with respect
8 to a crude oil or refined petroleum product pipeline
9 facility. In establishing the schedule, the Commission
10 shall—

11 (A) ensure expeditious completion of all
12 such proceedings; and

13 (B) accommodate the applicable schedules
14 established by Federal law for such proceedings.

15 (2) FAILURE TO MEET SCHEDULE.—If a Fed-
16 eral or State administrative agency or official does
17 not complete a proceeding for an approval that is re-
18 quired for a Federal pipeline authorization in ac-
19 cordance with the schedule established by the Com-
20 mission under this subsection, the applicant may
21 pursue remedies under subsection (e).

22 (d) CONSOLIDATED RECORD.—The Commission
23 shall, with the cooperation of Federal and State adminis-
24 trative agencies and officials, maintain a complete consoli-
25 dated record of all decisions made or actions taken by the



1 Commission or by a Federal administrative agency or offi-
2 cer (or State administrative agency or officer acting under
3 delegated Federal authority) with respect to any Federal
4 pipeline authorization. Such record shall be the record for
5 judicial review under subsection (e) of decisions made or
6 actions taken by Federal and State administrative agen-
7 cies and officials, except that, if the Court determines that
8 the record does not contain sufficient information, the
9 Court may remand the proceeding to the Commission for
10 further development of the consolidated record.

11 (e) JUDICIAL REVIEW.—

12 (1) IN GENERAL.—The United States Court of
13 Appeals for the District of Columbia shall have
14 original and exclusive jurisdiction over any civil ac-
15 tion for the review of—

16 (A) an order or action related to a Federal
17 pipeline authorization by a Federal or State ad-
18 ministrative agency or official; and

19 (B) an alleged failure to act by a Federal
20 or State administrative agency or official acting
21 pursuant to a Federal pipeline authorization.

22 The failure of an agency or official to act on a Fed-
23 eral pipeline authorization in accordance with the
24 Commission's schedule established pursuant to sub-
25 section (c) shall be considered inconsistent with Fed-



1 eral law for the purposes of paragraph (2) of this
2 subsection.

3 (2) COURT ACTION.—If the Court finds that an
4 order or action described in paragraph (1)(A) is in-
5 consistent with the Federal law governing such Fed-
6 eral pipeline authorization, or that a failure to act
7 as described in paragraph (1)(B) has occurred, and
8 the order, action, or failure to act would prevent the
9 siting of the crude oil or refined petroleum product
10 pipeline facility, the Court shall remand the pro-
11 ceeding to the agency or official to take appropriate
12 action consistent with the order of the Court. If the
13 Court remands the order, action, or failure to act to
14 the Federal or State administrative agency or offi-
15 cial, the Court shall set a reasonable schedule and
16 deadline for the agency or official to act on remand.

17 (3) COMMISSION'S ACTION.—For any civil ac-
18 tion brought under this subsection, the Commission
19 shall promptly file with the Court the consolidated
20 record compiled by the Commission pursuant to sub-
21 section (d).

22 (4) EXPEDITED REVIEW.—The Court shall set
23 any civil action brought under this subsection for ex-
24 pedited consideration.



1 (5) ATTORNEY'S FEES.—In any action chal-
2 lenging a Federal pipeline authorization that has
3 been granted, reasonable attorney's fees and other
4 expenses of litigation shall be awarded to the pre-
5 vailing party. This paragraph shall not apply to any
6 action seeking remedies for denial of a Federal pipe-
7 line authorization or failure to act on an application
8 for a Federal pipeline authorization.

